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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/889,705	09/19/2001	Robert W. Griffiths	1160-3912.1U	7403

7590 08/11/2004
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EXAMINER

JACKSON, ANDRE K

ART UNIT PAPER NUMBER

2856

DATE MAILED: 08/11/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Advisory Action	Application No. 09/889,705	Applicant(s) GRIFFITHS ET AL.	
	Examiner André K. Jackson	Art Unit 2856	

--The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

THE REPLY FILED 09 July 2004 FAILS TO PLACE THIS APPLICATION IN CONDITION FOR ALLOWANCE. Therefore, further action by the applicant is required to avoid abandonment of this application. A proper reply to a final rejection under 37 CFR 1.113 may only be either: (1) a timely filed amendment which places the application in condition for allowance; (2) a timely filed Notice of Appeal (with appeal fee); or (3) a timely filed Request for Continued Examination (RCE) in compliance with 37 CFR 1.114.

PERIOD FOR REPLY [check either a) or b)]

- a) ☒ The period for reply expires 3 months from the mailing date of the final rejection.
- b) ☐ The period for reply expires on: (1) the mailing date of this Advisory Action, or (2) the date set forth in the final rejection, whichever is later. In no event, however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of the final rejection. ONLY CHECK THIS BOX WHEN THE FIRST REPLY WAS FILED WITHIN TWO MONTHS OF THE FINAL REJECTION. See MPEP 706.07(f).

Extensions of time may be obtained under 37 CFR 1.136(a). The date on which the petition under 37 CFR 1.136(a) and the appropriate extension fee have been filed is the date for purposes of determining the period of extension and the corresponding amount of the fee. The appropriate extension fee under 37 CFR 1.17(a) is calculated from: (1) the expiration date of the shortened statutory period for reply originally set in the final Office action; or (2) as set forth in (b) above, if checked. Any reply received by the Office later than three months after the mailing date of the final rejection, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

1. ☐ A Notice of Appeal was filed on _____. Appellant's Brief must be filed within the period set forth in 37 CFR 1.192(a), or any extension thereof (37 CFR 1.191(d)), to avoid dismissal of the appeal.
2. ☒ The proposed amendment(s) will not be entered because:
- (a) ☐ they raise new issues that would require further consideration and/or search (see NOTE below);
 - (b) ☐ they raise the issue of new matter (see Note below);
 - (c) ☒ they are not deemed to place the application in better form for appeal by materially reducing or simplifying the issues for appeal; and/or
 - (d) ☐ they present additional claims without canceling a corresponding number of finally rejected claims.

NOTE: See Continuation Sheet.

3. ☐ Applicant's reply has overcome the following rejection(s): _____.
4. ☐ Newly proposed or amended claim(s) _____ would be allowable if submitted in a separate, timely filed amendment canceling the non-allowable claim(s).
5. ☐ The a) ☐ affidavit, b) ☐ exhibit, or c) ☐ request for reconsideration has been considered but does NOT place the application in condition for allowance because: _____.
6. ☐ The affidavit or exhibit will NOT be considered because it is not directed SOLELY to issues which were newly raised by the Examiner in the final rejection.
7. ☒ For purposes of Appeal, the proposed amendment(s) a) ☒ will not be entered or b) ☐ will be entered and an explanation of how the new or amended claims would be rejected is provided below or appended.

The status of the claim(s) is (or will be) as follows:

Claim(s) allowed: _____.

Claim(s) objected to: _____.

Claim(s) rejected: 1-14 and 16-29.

Claim(s) withdrawn from consideration: _____.


8. ☐ The drawing correction filed on _____ is a) ☐ approved or b) ☐ disapproved by the Examiner.
9. ☐ Note the attached Information Disclosure Statement(s) (PTO-1449) Paper No(s). _____.
10. ☐ Other: _____

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Continuation of 2. NOTE: Cohen et al. teaches everything except having the vertical and horizontal offset in the same embodiment. Figure 6 teaches where the electrodes are vertically offset but the majority of the horizontal areas are not. Cohen et al. teach that these plates (80,82) are placed this way to detect discrete levels within the container (Column 7, lines 67-68). Applicants do not understand how this corresponds to the instant application or how the two embodiments can be combined. This teaching explicitly describes why one of ordinary skill would place the electrodes in a vertical and a horizontal offset pattern. For instance when the liquid level is between two electrodes it would be difficult to detect the actual level of the liquid within the container, with the electrodes placed in an offset pattern as suggested by Cohen et al. it would be possible to detect precisely that amount of liquid within the container. Oota et al. teach where the electrodes are placed in a zigzag fashion (Abstract; Column 4, line 41) where most of the areas (both horizontal and vertical) are not overlapping. Oota et al. explain that this is done because the liquid level can lie just between two adjacent electrodes and the accurate detection can be made (Column 1, lines 57-61; Column 4, lines 40-44).

Cohen et al. disclose a container 92 and the electrodes are in an interior volume as recognized by the Applicant on page 13 of the Remarks. Applicants even reveal that the inner electrode of Oota et al. is in isolation of the interior volume. Therefore, it is certainly within the purview of the skilled artisan to combine the teachings of the two references.

Applicants ask why one would want to combine the teachings of Kelly and Matzuk. Both references disclose changing a signal from dc to oscillating or oscillating to dc. Matzuk discloses where the continuous signal is converted to a pulse signal and Kelly discloses where a pulse signal is converted to an oscillating signal. One would use the teachings depending on the application. For example in liquid level measurement for an air craft one would need to convert the intermittent dc signal to a continuous measurement since the operator would need a constant fuel level measurement.


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